

GWALIOR DUGDHA SANGH SAHAKARI LTD.
v
G.M. GOVT. MILK SCHEME, NAGPUR AND ORS.

AUGUST 21, 2003

[V.N. KHARE, C.J. AND S.B. SINHA, J.]

Madhya Pradesh Co-operative Societies Act, 1960:

S.64—Applicability of to arbitration clause in agreement relating to inter-state transaction—Agreement between parties for supply of milk by appellant to respondent—Arbitration clause providing that disputes between parties would be referred to arbitrator, i.e. Dairy Development Commissioner, Bombay—Subsequent application by appellant for quashing the arbitration clause—Allowed by District Judge as in his opinion in view of s.64 the condition in agreement was erroneous—High Court setting aside the order holding that since the agreements were entered into beyond the territorial jurisdiction of appellant, i.e. outside the State of Madhya Pradesh, s.64 of the Act was inapplicable—Held, agreements were entered into and executed at Nagpur which is outside the territorial jurisdiction of State of Madhya Pradesh—Section 1 of the Act provides that the provisions of the Act would be applicable to the whole of Madhya Pradesh—Since the operation of the Act is intra-State and cannot be applied beyond the territory of State of Madhya Pradesh, and the agreements were entered into and executed in the State of Maharashtra, s.64 is not applicable and, therefore, the view taken by the High Court was correct—Arbitration Act, 1940—s.33.

T.K. Sundaram v. The Co-operative Sugars Ltd. Chittoor, AIR (1988) Madras 167 approved.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2732 of 1997.

From the Judgment and Order dated 5.11.96 of the Madhya Pradesh High Court in M.A. No. 354 and 355 of 1995.

S.S. Khanduja, Yash Pal Dhingra and Baldev Kishan Satija for the Appellant.

A Niraj Sharma and Krishnanand Pandeya for the Respondents.

The following Order of the Court was delivered :

B The appellant herein is a society registered under the Madhya Pradesh Co-operative Societies Act, 1960 (hereinafter referred to as "the Act"). On 17.12.1993 and 8.2.1994, the appellant herein entered into agreements with the General Manager, Government Milk Scheme, Nagpur/Akola for supply of milk. These agreements were executed at Nagpur. Condition No.19 of the said agreements provided that the disputes between the parties shall be referred to an arbitrator, i.e. the Dairy Development Commissioner, Bombay, Maharashtra. C Subsequently, the appellant-Society moved an application under Section 33 of the Arbitration Act, 1940 for quashing condition No. 19 whereby the arbitration was to be done by the Dairy Development Commissioner, Bombay, Maharashtra. The learned District Judge was of the opinion that in view of Section 64 of the Act, condition No. 19 of the agreement was erroneous and, therefore, the same was set aside and the application was allowed. Aggrieved, D the respondents filed an appeal before the High Court. The High Court was, *inter alia*, of the view that since the agreements were entered into beyond the territorial jurisdiction of the appellant, that is outside the State of Madhya Pradesh, Section 64 of the Act was inapplicable and, therefore, the High Court set aside the order of the learned District Judge and allowed the appeal. It is against the said judgment, the appellant is in appeal before us.

E Learned counsel appearing for the appellant urged that the view taken by the High Court was erroneous. We do not find any merit in this contention.

F It is not disputed that the agreements were entered into and executed at Nagpur which is outside the territorial jurisdiction of the State of Madhya Pradesh. Section 1 of the Act provides that the provisions of the Act would be applicable to the whole of Madhya Pradesh. Since the operation of the Act is intra-State and cannot be applied beyond the territory of the State of Madhya Pradesh, it must be held that Section 64 of the Act is not applicable.

G In *T.K. Sundaram v. The Co-operative, Sugars Ltd., Chittoor*, AIR (1988) Madras 167, it was held thus:

H "8. The next question raised on behalf of the appellant is that the suit is barred under the provisions of the Kerala Co-operative Societies Act, and as such the suit ought to have been dismissed. This argument is based upon the arbitration provision contained in the Kerala Co-

operative Societies Act. But the contract has been entered into in Tamil Nadu and the same is enforceable in Tamil Nadu. As such with reference to the contract entered into the Tamil Nadu, and enforceable in Tamil Nadu provisions of the Kerala Co-operative Societies Act cannot be applied. Under the circumstances, both the courts below are rights in negating the contention, relating to jurisdiction. A

Applying the principle laid down above, we find that since the agreements in the present case were entered into and executed in the State of Maharashtra, Section 64 of the Act is not applicable and, therefore, the view taken by the High Court was correct. We find no merit in the appeal. It is, accordingly, dismissed. No costs. B

Learned counsel appearing for the arbitrator (respondent No. 3 herein) furnished before us a copy of the award in a sealed cover. Since we have already disposed of the matter, it will be open to the arbitrator to file the same before the appropriate court. C

R.P.

Appeal disposed of.